

Case Law Today - April 2011

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California Commission on Peace Officer Standards and Training

Cross-Gender Strip Searches

with William W. Bedsworth, Appellate Court Justice, State of California

In this case, the 9th Circuit held that having a female deputy participate in a strip search of a male inmate violated his Fourth Amendment rights. This has consistently been the holding of the federal courts, and Justice Bedsworth explains that unless the U.S. Supreme Court holds otherwise, it is the law. But there is one small exception to the rule. *Case cited: Byrd v. Maricopa County Sheriff's Dept. (2011) DJDAR 300 (January 6, 2011). (7:29)*

Seizure Requires Submission to Authority by Suspect

with Jeff Rubin, Deputy District Attorney, Alameda County, CA

A suspect's momentary hesitation and brief exchange with an officer who had ordered the suspect to stop and stand in front of a patrol car did not constitute the necessary "submission to authority" that would render the suspect seized for Fourth Amendment purposes where the suspect took off on headlong flight immediately thereafter. *Case cited: United States v. Smith (9th Cir. 2011) 2011 WL 339209. (4:56)*

Miranda: "Selective" Invocation of Silence

with Daniel McNeerney, Superior Court Judge, Orange County, CA

In this case, the Federal 9th Circuit interprets a suspects' refusal of a detective's request to demonstrate how a shooting occurred as an invocation of his right to silence as to that request. *Case cited: Hurd v. Terhune (2010) DAR 13303. (8:09)*

Emergency Aid Exception Based Solely on Objective Factors

with Jeff Rubin, Deputy District Attorney, Alameda County, CA

Under the emergency aid exception to the warrant requirement, the validity of entry is not judged based on the officers' subjective intent for entry but on whether there exists an objectively reasonable basis for believing medical assistance is needed or persons are in danger. Such objectively reasonable basis existed for entry into a home and locked upstairs room where police received a report of a male victim being shot but found a female victim with multiple gunshot wounds on the front porch, along with another injured male who gave conflicting and unreliable answers about who might be inside the house, and there was blood on the front door entrance. *Case cited: People v. Troyer 2011 WL 36292733. (10:51)*

Retired Peace Officers and Assault Weapons

with William W. Bedsworth, Appellate Court Justice, State of California

One of Governor Brown's last actions as Attorney General was to sign an Attorney General Opinion to the effect that retired peace officers are not entitled to possess assault weapons they purchased while peace officers. Justice Bedsworth explains what an Attorney General Opinion is and what this specific opinion provides. (7:46)

Miranda's Public Safety Exception, Nonverbal Consent, and Tent Curtilages

with Jeff Rubin, Deputy District Attorney, Alameda County, CA

When detaining a suspect based on suspicion of his having unlawfully fired a gun, police may, before Mirandizing the suspect, ask about the location of the firearm under the public safety exception to the *Miranda* rule. Consent to a search may be conveyed by a nod of the head. And a tent on a public campground has no "curtilage" subject to Fourth Amendment protection. *Case cited: United States v. Basher (9th Cir. 2011) 629 F.3d 1161. (9:33)*